

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION**

**VINCENT GILLESPIE,
AND DOES 1-100,**

Plaintiffs,

VS.

ELI LILLY AND COMPANY

Defendant.

CASE NO. 3:03-cv-30196-MAP

**DEFENDANT ELI LILLY AND COMPANY'S
MOTION FOR PROTECTIVE ORDER OF CONFIDENTIALITY**

Comes now defendant Eli Lilly and Company (“Lilly”) and, pursuant to Fed. R. Civ. P. 26(c) and Local Rule 7.1, respectfully requests this Court to enter the proposed Protective Order of Confidentiality attached hereto as **Exhibit A**. In support of its motion, Lilly states as follows.

1. This is a wrongful death action in which plaintiff Vincent Gillespie claims that Gregory Gillespie's alleged ingestion of defendant Eli Lilly and Company's prescription antidepressant medication (Prozac®) caused Gregory Gillespie (decedent) to commit suicide.

2. As part of its discovery in this matter, Lilly served a subpoena upon non-party Atlantic Video Productions (“Lilly’s subpoena”). Subpoena attached as **Exhibit B**. Lilly’s subpoena seeks production of, *inter alia*, audio- and/or videotaped interviews Kevin Weyl of Atlantic Video Productions conducted with the decedent.

3. Upon receipt of Lilly's subpoena, Mr. Kevin Weyl, creative director and sole proprietor of Atlantic Video Productions called counsel for Lilly. While Mr. Weyl does not object to producing the material sought by Lilly's subpoena, he considers his interview material

to be proprietary and seeks assurance that his property will be used *for the purposes of this litigation only*.

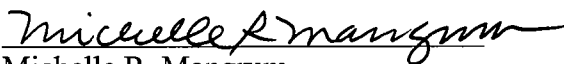
4. In recognition of Mr. Weyl's concerns, defendant Eli Lilly and Company agreed to stipulate to a protective order of confidentiality concerning Mr. Weyl's audio- and/or videotaped interviews with the decedent. The Protective Order of Confidentiality to which Lilly and Atlantic Video Productions, through Kevin Weyl, have stipulated is attached hereto. *See* Exhibit A.

5. Lilly counsel, Michelle R. Mangrum, corresponded via e-mail with *pro se* plaintiff Vincent Gillespie concerning this motion and the proposed protective order on January, 26, 2004. On January 29, 2004, Mr. Gillespie replied by e-mail that he would not oppose Lilly's motion or the stipulated Protective Order of Confidentiality if two changes were made to the order. The two changes were made to the protective order, thus, Mr. Gillespie does not oppose Lilly's motion or the stipulated Protective Order of Confidentiality.

WHEREFORE defendant Eli Lilly and Company respectfully requests that this Court enter the attached Protective Order of Confidentiality and grant such other relief as the Court may deem just and proper.

Respectfully submitted,

ELI LILLY AND COMPANY


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and

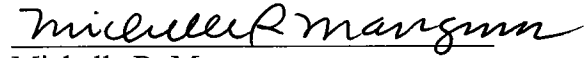
James J. Dillon, P.C. (BBO # 124660)
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Dated: February 23, 2004

**Attorneys for Defendant
Eli Lilly and Company**

L.R. 7.1 CERTIFICATE

I, Michelle R. Mangrum, one of the attorneys for defendant Eli Lilly and Company in the above-captioned matter, hereby certify that counsel for Lilly conferred with plaintiff about the within motion and attempted in good faith to resolve or narrow the issues presented herein.


Michelle R. Mangrum

Dated: February 23, 2004


CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 2004, a true and correct copy of Defendant Eli Lilly and Company's Motion for Protective Order of Confidentiality was mailed via first class U.S. Mail, postage prepaid thereon, to the following *pro se* plaintiff:

Vincent Gillespie
P.O. Box 741
Northampton, MA 01061

And non-party:

Kevin Weyl
Atlantic Video Productions
30 Boltwood Walk
Amherst, MA 01002


**ATTORNEY FOR DEFENDANT
ELI LILLY AND COMPANY**